United Nations S/2005/191

Security Council

Distr.: General
22 March 2005

Original: English

Letter dated 21 March 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 3 September 2002 (S/2002/998). The Counter-Terrorism Committee has received the attached second report from Malawi submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 15 March 2005 from the Permanent Mission of Malawi to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Malawi to the United Nations presents its compliments to the Chairman of the Committee and has the honour to submit the supplementary report of the Government of the Republic of Malawi (see enclosure).

In its supplementary report, Malawi has endeavoured to respond to the questions raised by the Committee in its letter dated 27 August 2002.

Enclosure

SECOND REPORT OF THE REPUBLIC OF MALAWI TO THE UNITED NATIONS SECURITY COUNCIL COUNTER-TERRORISM COMMITTEE

1.0 INTRODUCTION

1.1 Malawi is located in Southern Africa and is bordered by Tanzania to the North East, Zambia to the North West and Mozambique to the South East and South West. It covers an area of 118,485 square kilometers and, according to 2002 estimates, its population is approximately 11.24 million.

1.2 In recognition of the fact that the threat of terrorism is real and knows no boundaries, the Malawi Government remains committed to the fight against terrorism. In this connection, the Government is taking all the necessary measures aimed at combating terrorism, and stands ready to unite and cooperate with the international community, until the battle is finally won. Thus, the Malawi National Counter-Terrorism Committee is currently meeting on a monthly basis in order to expedite its efforts in this war.

1.3 This report contains the efforts that the Malawi Government is currently exerting to combat terrorism. It also outlines the challenges that the Malawi Government faces in the fight against terrorism and, accordingly, recommendations for assistance from the United Nations and the international donor community have been made, to enable it enhance its capacity in this regard.

1.4 It must be noted, however, that this is the second report of the Government of the Republic of Malawi to the United Nations Security Council Counter-Terrorism Committee (CTC).

2. THE THREAT OF TERRORISM IN MALAWI

2.1 Malawi has not been spared from the threat of terrorism and, for this reason, in 2002, five terrorism suspects of foreign nationalities were identified and arrested. The five were identified on a tip-off from the Central Intelligence Agency (CIA) of the United States of America and, after thorough investigations by the Malawi security agents, they were arrested on suspicion that they had links to the al-Qaeda terrorist network.

2.2 The suspects were found to be members of the Al-Haramain Islamic Foundation and their names are as follows: Mr. Fahad Al-Bahlei, Sheikh Khalifa Abdul Hussein, Mr. Arif Ulusam, Dr. Habachi Ibrahim, and Sheikh Mahmud Salidali Issa. Investigations revealed that the former Director of the Organisation (Al-Haramain Islamic Foundation), which operated in Tanzania, Mr. A-Turke, was resident in Malawi and was staying with Fahad Al- Bahlei. Mr. Al-Turke was also known as Abu Waheed and Abu Khalid. Arif Ulusam, Habachi Ibrahim and Sheikh Mahmud were involved in the running of the Al-Haramain Islamic Foundation, which was allegedly linked to the bombings of the American Embassies in Kenya and Tanzania and, in turn, linked to Al-Qaeda. Documentation for Al-Haramain Islamic Foundation were also found at the residence of Fahad Al-Bahlei, who was also Director for the Prince Sultan Bin Abdul Aziz Relief Organisation and similar files were found at Sheikh Mahmud Salidali Issa's office. Their organization was not registered at the Registrar General's Office in Malawi.

2.3 The five suspects were deported to face trial outside Malawi. This was in keeping with the international legal instruments, which call for cooperation amongst United Nations member states in the global fight against terrorism.

3.0 EFFORTS BY THE GOVERNMENT OF MALAWI IN THE FIGHT AGAINST TERRORISM

3.1 The Malawi National Counter-Terrorism Committee (NCTC)

3.1.1 In compliance with the United Nations Resolution 1373(2001), the Malawi Government established its National Counter-Terrorism Committee on 14th November, 2001. The committee is chaired by the Office of the President and Cabinet (OPC) with the Ministry of Foreign Affairs as its Secretariat. Other members include: Ministries of Defence; Home Affairs and Internal Security; Finance; Transport and Public Works; Information and Tourism; Justice and Constitutional Affairs; the National Intelligence Bureau and the Reserve Bank of Malawi. The Government has also established a contact point at the Malawi Permanent Mission to the United Nations in New York, United States of America.

3.1.2 The Committee has, since its inception on 14th November, 2001, held a series of meetings, during which it has reviewed various security systems in places perceived to be likely targets for terrorists, and has made recommendations to various concerned parties to ensure that all

the provisions of the UNSC resolution 1373 are fully complied with. The Committee has also established four sub-committees namely; the Finance Sub-committee, the Publicity Sub-committee, the Intelligence Sub-committee and the Legal Sub-committee in order to improve the coordination and operations of the fight against terror in Malawi.

3.2 Legislation

3.2.1 The existing legislation in the country provides that it is an offence to engage in any terrorist activities on the territory of Malawi. In view of the sophistication that terrorists have attained, the National Committee on Counter-Terrorism, through its legal subcommittee, is in the process of drafting legislation on Counter-Terrorism, which shall incorporate obligations assumed from various international legal instruments on terrorism, and enhance the implementation of the UN Resolution 1373 (2001). Consultations, aimed at developing a comprehensive legal framework for checking against terrorism, are thus underway. In addition to this, government has prepared a draft **Money Laundering and Proceeds of Serious Crime Bill, 2004**, which will be tabled in Parliament shortly.

3.3 Ratification of regional and international instruments on terrorism

3.3.1 Malawi is a party to the following regional and international legal instruments, against terrorism:

I. The African Union Convention on the Prevention and Combating of Terrorism;

II. Convention on Offences and Certain other Acts Committed on Board Aircrafts;

III. Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation;

IV. Convention on the Suppression of Unlawful Seizure of Aircraft;

V. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents;

VI. International Convention Against the taking of Hostages;

VII. Convention on the Physical Protection Against Nuclear Material;

VIII. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation;

IX. Convention on the Marking of Plastic Explosives for the Purpose of Detection;

X. International Convention for the Suppression of Terrorist Bombings; and

XI. International Convention for the Suppression of the Financing of terrorism.

3.3.2 In recognition of the important role that the **United Nations Convention Against Trans-national Organized Crime** plays in the fight against terrorism, the Government of the Republic of Malawi has decided to ratify the Convention. The instruments of ratification have been prepared and will be deposited soon.

3.4 Strengthening the control and monitoring of Land, Sea, and Air Borders, as well as customs and immigration check-points

3.4.1 The Malawi Government has taken decisive measures aimed at combating international terrorism. All security organizations in Malawi are very keen on knowing about the details of visitors. In this respect, security at airports has been stepped up, and travel control has also been enhanced.

3.4.2 The Government has, accordingly, intensified scrutiny of all persons entering Malawi and monitoring the movement of all those suspected to have inclination to terrorist individuals or entities.

3.4.3 Restrictions on the issuance of visas, as well as the thorough vetting of those seeking asylum in the country have been put in place, in order to check against the possibility of terrorists sneaking into the country. However, this is done with due consideration to the 1951 Geneva Convention Relating to the Status of Refugees.

3.4.4 In addition, the Malawi Government has introduced machine-readable passports with advanced security features to check against counterfeit passports. Security at airports has also been stepped up in line with the requirements of the International Civil Aviation Organization (ICAO). Security at airports, as well as all other entry points, has been put on high alert.

3.4.5 Security in and around strategic installations, such as foreign embassies has been tightened, while travel control has also been enhanced.

3.4.6 Malawi has embarked on civic education to create awareness on terrorism and terrorist activities in all relevant government departments.

3.5 Information exchange and sharing

3.5.1 One of the major functions of the National Counter-Terrorism Committee is to ensure that there is unimpeded flow of information amongst all security agencies, both within the country and abroad. The committee, therefore, facilitates the free flow of information on terrorist activities amongst security agencies, which are currently working hand-in-hand to suppress such activities. Terrorism related information is thus shared amongst all the security institutions in the country.

3.6 Financial and Economic Assets Freeze

3.6.1 The Government of the Republic of Malawi is aware of its obligations as set out in the UN Resolution 1267 and subsequent resolutions with respect to freezing of funds and other financial assets of economic resources of listed individuals and entities. It is, thus, committed to support and contribute to the international efforts against money laundering and terrorist financing. It is, therefore, desirous of

developing and promoting policies and standards critical in the fight against money laundering and terrorist financing.

3.6.2 In view of the foregoing, the Government of the Republic of Malawi, with the assistance of other security agencies, maintains a list of individuals and organizations that provide support to terrorists. The list has been shared with the banks and financial institutions in the country.

3.6.3 The banks and financial institutions use the list to compare with their existing and potential customer profiles, in order to locate and identify assets attributable to, or for the benefit of, individuals or organisations associated with terrorism. The banks and financial institutions are, therefore, obliged to ensure that they do not process any transaction related to the listed names and entities. This is done on the basis of the Banking Act and the Exchange Control Act (in respect of foreign remittance).

3.6.4 **Section 49 of the Banking Act, 1989** requires banks and financial institutions to identify their customers. The Reserve Bank of Malawi, as a supervisory authority, is responsible for monitoring compliance with these requirements. Banks are encouraged to view this as part of their risk management practices. On the basis of **Section 49 of the Banking Act**, the Malawi Government has prepared a comprehensive Customer Due Diligence Directive (Regulation/ Guidelines) for banks and financial institutions. The Directive has been modelled after the 'Basle Customer Due Diligence for Banks', issued in 2001, and also

takes into account the Revised FATF 40 + 8 Recommendations. The Directive will be issued for implementation in January 2005.

3.7 Promotion of international cooperation and extradition arrangements

3.7.1 Malawi actively participates in regional and international counter-terrorism meetings, such as the Organ on Politics, Defence and Security of the Southern African Development Community (SADC) that, among other things, seeks to prevent and combat international terrorism and the African Union High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa. Malawi also actively participates in continental and multilateral initiatives on counter-terrorism, through, among other groupings, the United Nations, the African Union, the Commonwealth and the Non-Aligned Movement.

3.7.2 At the bilateral level, Malawi enjoys co-operation and support from many countries. It has bilateral Joint Defence and Security Commissions with Zambia, Mozambique and Tanzania. Malawi also enjoys co-operation and support from the Government of the United States of America and neighbouring countries through the provision of information on suspected terrorists, terrorist organizations and entities.

3.7.3 Malawi also participates in the Defence Intelligence Standing Commission of the Southern Africa Development Community, which

meets biannually to discuss security developments in the region amongst Ministries of Defence.

3.7.4 Malawi has signed and ratified the SADC Mutual Legal Assistance Instrument, which is coordinated by Interpol, and the Rome Statute. These instruments encourage cooperation in pursuing criminal matters, including extradition and sharing of information.

4. CHALLENGES AND RECOMMENDATIONS

4.1 In its efforts to fight and combat terrorism, the Government of the Republic of Malawi has encountered a number of challenges and constraints. Some of the challenges and constraints include:

i. Lack of capacity in human resources. For instance, it does not have adequate expertise to conduct interrogation of suspects. In this regard, there is need for specialized training to improve efficiency and the acquisition of modern technologies and equipment, such as x-ray walk-through metal detectors at all strategic locations, such as airports. Malawi also needs adequate resources to monitor and patrol both its borders with neighboring countries and within the country.

ii. Lack of material resources. The Malawi Government needs advanced and sophisticated equipment to enhance the screening of passports and baggage, as well as passenger checks at airports and other ports of entry and exit.

iii. Lack of financial resources. This is indeed one of the major setbacks for the Malawi Government in its efforts to fight terrorism. Due to limited financial resources, the Malawi Government has not been able to conduct adequate terrorism awareness campaigns and comprehensive on-going monitoring exercises. Financial support from the international community is, therefore, required to assist the Malawi Government in this regard.

iv. Lack of the National Identity Card is one of the factors that impede the monitoring of the movement of people within Malawi. Government is, therefore, in the process of drafting a National Identity Card Legislation which will, facilitate the implementation of the a National Identity Card Project. This project will, certainly, go a long way in resolving the above-mentioned problem. In this regard, financial support from the international community to assist the Government in the expeditious production of the national identity cards will be appreciated.

5. CONCLUSION

5.1 Malawi totally condemns terrorism and believes that no cause can be used to justify any act of terror. This is why security personnel in Malawi, in 2002, carried out an operation during which five terrorist suspects were apprehended and surrendered to the American Government for questioning.

5.2 Malawi remains committed to the global fight against terrorism and shall always endeavour to act in line with its obligations domestically, as well as internationally, to ensure that it keeps its territory free from terrorist activities and that its territory does not become a safe haven for terrorists. In pursuit of this policy, the Government of Malawi shall, in line with international obligations, render support and cooperation to all member states of the United Nations in the fight against terrorism and play its rightful role in the global fight against terrorism.

5.3 As it has been indicated in the report, Malawi is currently facing limitations in its counter-terrorism endeavours and, for this reason; its efforts could be meaningful if complemented by the support from the international community, including the United Nations Counter-Terrorism Committee.

5.4 In this regard, the Malawi Government is calling upon the international Community to assist it in its efforts to fight terrorism.